



alternatively, 28 U.S.C. §§ 2241 and 1651. (Doc. No. 1). This Court dismissed the § 2255 claims as successive and denied relief on the alternative claims. Persaud v. United States, 2012 WL 5902557 (W.D.N.C. Nov. 26, 2012). The Fourth Circuit dismissed the appeal in part and affirmed in part. United States v. Persaud, 517 Fed. Appx. 137 (4<sup>th</sup> Cir. 2013). On certiorari review, Petitioner argued that he is entitled to relief under § 2241 based on two intervening decisions. The Government filed a brief in support of Petitioner's position. The Supreme Court vacated the Fourth Circuit's judgment and remanded for further consideration. Persaud v. United States, 571 U.S. 1172 (2014). The Fourth Circuit, in turn, granted the parties' motion to remand to this Court for further proceedings. (Doc. No. 13).

On remand, the Respondent's Motion to stay this case pending the Fourth Circuit's issuance of United States v. Surratt, Case Number 14-6851, was granted. (Doc. No. 15).

Presently before the Court are Respondent's Motions to stay this case pending the Fourth Circuit's decision in Wheeler, and now, the United States Supreme Court's decision on certiorari, if a certiorari petition is filed. The most recent motion states that Petitioner objects to the stay but he has not filed a memorandum in support of that position.

The Court finds that the disposition of this case may be affected by the outcome of Wheeler. Therefore, the Motion to Stay pending the Supreme Court's resolution of any certiorari petition will be granted. Respondent's earlier Motion to Stay pending the Fourth Circuit's decision will be denied as moot.

**IT IS HEREBY ORDERED** that:

- (1) Respondent's Motion to Stay, (Doc. No. 20), pending certiorari is **GRANTED**.

The United States shall have 45 days after the United States decides not to file a petition for writ of certiorari in Wheeler, or if a certiorari petition is filed, 45 days

after is resolved by the Supreme Court, in which to file its response.

- (2) Respondent's Motion to Stay, (Doc. No. 19), pending appeal is **DENIED** as moot.

Signed: September 4, 2018

A handwritten signature in black ink, reading "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney  
Chief United States District Judge

